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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,829	05/19/2004	Thomas John Nyland	14684.IUS01	4775
7590	01/27/2009			
Merchant & Gould P.C. P.O. Box 2903 Minneapolis, MN 55402-0903		EXAMINER ROWAN, KURT C		
		ART UNIT 3643		PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS JOHN NYLAND

Application 10/848,829
Technology Center 1600

Mailed: January 26, 2009

Before PAMELA S. BENNETT, *Review Team Paralegal*.

BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 8, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

COMMUNICATION RE: APPELLANT'S BRIEF ON APPEAL

Appellant filed a paper entitled “Communication re: Appellant’s Brief on Appeal” dated January 29, 2007 which contained a revised “Summary of Claimed Subject Matter.” There is no indication on the record that the Examiner has considered the above “Communication re: Appellant’s Brief on Appeal.”

EXAMINER’S ANSWER, GROUNDS OF REJECTION

On March 28, 2007, an Appeal Center Return referencing the January 23, 2007 Examiner’s Answer was mailed which stated that “[a]n explanation of the grounds of rejection was not submitted in section 9 of the answer. Conferees need to initial.” In response, a paper was mailed on April 9, 2008 which included a revised “Grounds of Rejection.” However, it is noted that the revised “Grounds of Rejection” contains cancelled claims.¹ It is also noted that the conferees have still not initialed the Examiner’s Answer. Correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) for consideration of the paper filed on January 29, 2007 containing the revised “Summary of Claimed Subject Matter”;

¹ The Amendment filed May 22, 2006 cancelled claims 1-9, 12, 16-22 and 27-34 and stated that claims 10, 11, 13, 23-26 and 35 are presently pending [page 5]. This was confirmed by the Advisory Action mailed June 14, 2006.

- 2) for a proper response to the March 28, 2007 Appeal Center Return;
- and
- 3) for such further action as may be appropriate.

PSB

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